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TECHNOLOGY CENTER 2600

Paper No. 9

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In re Application of  
Biing-Seng Wu, et al.  
Application No. 09/826,096  
Filed: April 5, 2001  
For: METHOD OF REDUCING FLICKERING  
AND INHOMOGENEOUS BRIGHTNESS IN LCD

DECISION ON PETITION  
TO WITHDRAW HOLDING OF  
ABANDONMENT

This is a decision on the renewed Request for Withdrawal of the Notice of Abandonment based on failure to receive an Office action filed June 4, 2003 which is treated as a Petition to Withdraw Holding of Abandonment pursuant to 37 C.F.R. §1.181, filed July 27, 2004. No fee is required.

This application became abandoned due to failure to timely respond to the Office action mailed June 4, 2003. A Notice of Abandonment was mailed on March 4, 2004.

Pursuant to MPEP § 711.03(c) [See also Notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not received*, 1156 O.G. 53 (November 16, 1993)], in absence of any irregularity in the mailing of an Office Action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:


- (a) a statement from the practitioner stating that the Office communication was not received by the practitioner;
- (b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and,
- (c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner, within their renewed request, has satisfied the requirements set forth above. Accordingly, the petition is **GRANTED**.

The Notice of Abandonment is vacated and the holding of abandonment is withdrawn.

The application file is being returned to the examiner for update of the Office action as appropriate. From there, the application will be forwarded to the TC2600 Technical Support Staff for mailing of the updated Office action. The period for response will be set to run from the date of the new mailing.



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